

GOODMAN & SAPERSTEIN

COUNSELLORS AT LAW

Via ECF

September 29, 2009

Hon. Steven M. Gold
Chief Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East, Room 1217
Brooklyn, NY 11201

100 Garden City Plaza, Suite 412-B
Garden City, NY 11530
Phone 516.227.2100
Fax 516.227.2108
gsesq600@aol.com

STANLEY R. GOODMAN
MARTIN I. SAPERSTEIN

Re: Johnson & Johnson and LifeScan, Inc. v. South Pointe Wholesale, Inc., et al.
Docket No. 08 Civ. 1297 (SLT)(SMG)

Dear Judge Gold:

Our firm represents Defendants South Pointe Wholesale, Inc., Jarrod Shirley and Eutre Shirley ("South Pointe").

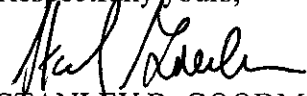
Geoffrey Potter, counsel for Johnson & Johnson and LifeScan, Inc. ("LifeScan"), and myself have been working toward a settlement with South Pointe. Cincinnati Insurance Company, the insurer of South Pointe, has provided the defense of this action with a reservation of rights. Further, the carrier has instituted a declaratory judgment action in Kentucky based upon its opinion that the coverage provided does not embrace the circumstances in this case. Nevertheless, I have had a continuous dialog with the insurance carrier's counsel. The carrier has expressed a willingness to submit to mediation in the hope that it would resolve the present litigation, as well as the declaratory judgment action.

Counsel for the carrier has authorized me to represent to you that the carrier will submit to mediation before Your Honor with representatives of the carrier who would have authority to settle. Likewise, South Pointe has also expressed its willingness to mediate. Mr. Potter has authorized me to represent to the Court that LifeScan will participate in the mediation and have its authorized representatives attend.

Respectfully, all of the parties are requesting your consent to mediate the case. The date that has been suggested is October 26, 2009. We believe that having you mediate this case would be most productive.

We look forward to your response. Thank you.

Respectfully yours,


STANLEY R. GOODMAN

SRG:pb

cc: Geoffrey Potter, Esq. via email: gpotter@pbwt.com
Colleen Blandford, Esq. via email: cblandford@kplawcom